

CAUSE NO. _____

MARIA MELGAR, AS NEXT FRIEND OF A.M., A
MINOR,
PLAINTIFFS

IN THE DISTRICT COURT

VS.

____ JUDICIAL DISTRICT

WAL-MART STORES TEXAS, LLC AND WAL-
MART STORES, INC.,
DEFENDANTS.

DENTON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARIA MELGAR, AS NEXT FRIEND OF A.M., A MINOR ("Plaintiffs")
complaining of and about, WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC.
("Defendants") and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2. Pursuant to Chapter 47 of the Texas Rules of Civil Procedure, Plaintiff seeks a maximum recovery of over \$250,000.00, but not more than \$ 1,000,000,000.

PARTIES AND SERVICE

2. Plaintiff MARIA MELGAR is an individual whose address is Irving, TX 75061.
3. Plaintiff, _____, is a minor child, whose date of birth is _____, 2010.
4. Defendant, WAL-MART STORES TEXAS, LLC is a foreign-based limited liability company and whose registered agent CT Corporation System may be served at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. **Issuance of citation is requested at this time.**
5. Defendant, WAL-MART STORES, INC. is an Arkansas-based corporation that is incorporated in

the State of Delaware and whose registered agent CT Corporation Systems may be served at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. **Issuance of citation is requested at this time.**

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.
7. This court has jurisdiction over Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC. because said Defendants purposefully availed themselves of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants, and the assumption of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.
8. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendants to the State of Texas, thereby conferring specific jurisdiction with respect to Defendants.
9. Furthermore, Plaintiff would show that Defendants engaged in activities constituting business in the State of Texas as provided by section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in Texas.
10. Venue in Dallas County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

11. On or about October 17, 2020, Plaintiffs were invitees on Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC.'s premises located at 4691 State Highway 121, The Colony, Texas 75056. As Plaintiffs were walking through the store, Defendants' employee, in the course of apprehending another patron, struck Minor A.M, causing him serious bodily injuries.

PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST DEFENDANTS

12. At all relevant times herein, Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC. had such control over the premises in question that Defendants owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.
13. At all relevant times herein, Plaintiff was an “invitee,” as classified under Texas law at the time of the incident in question. Plaintiff entered Defendants’ premises in question for the mutual benefit of Plaintiff and Defendants and/or for a purpose connected with the business of Defendants. Defendants’ employee(s) had control of the area where Plaintiff was injured.
14. Plaintiff alleges that Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC. were negligent in the hiring of the employee that was apprehending the patron in that Defendants knew, or in the exercise of reasonable care should have known, that its employee was unfit or unqualified to apprehend other customers while in the presence of other invitees during store hours.
15. Plaintiff alleges, in addition and without waiving the foregoing, that Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC. were negligent in the supervision of its employees in that Defendants knew, or in the exercise of reasonable care, should have known that its employee was unfit or unqualified for a position in which it was required to safely apprehend customers during business hours when invitees were on the premises.
16. Plaintiff alleges, in addition and without waiving the foregoing, that Defendants WAL-MART STORES TEXAS, LLC and WAL-MART STORES, INC. owed a duty of reasonable care to Plaintiffs. Defendants negligently failed to comply with this duty when it struck Plaintiff A.M., a minor, to wit:
 - a. In that Defendants’ employee failed to keep a proper lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
 - b. In that Defendants’ employee was not apprehending the other patron attentively while

customers were on the premises;

- c. Failing to warn patrons of the negligent employee;
- d. Failing to train, educate, test and instruct its employees to properly and safely apprehend other customers without causing injuries to other invitees on the premises;
- e. Failure to adequately supervise its employees;
- f. In Defendants' employee failing to act as a reasonably prudent person would have under the same or similar circumstances.

17. Defendants' acts and omissions constitute negligence.

18. Defendants' breach of these duties directly and proximately caused Plaintiffs' injuries.

RESPONDEAT SUPERIOR

19. At all relevant times, Defendants' negligent employees were acting in the scope of their employment with Defendants. Therefore, under the principle of respondeat superior, the masters are liable for their servant's torts.

DAMAGES FOR PLAINTIFF

20. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was caused to suffer physical injuries, and to incur the following damages:

- A. Reasonable medical care and expenses in the past;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Mental anguish in the past;
- F. Mental anguish in the future;
- G. Loss of earnings in the past;
- H. Impairment in the past;
- I. Impairment in the future;
- J. Lost wages;
- K. Loss of earning capacity;

- L. Loss of earning capacity in the future; and
- M. Past and future disfigurement.

NOTICE PURSUANT TO TRCP 193.7

21. NOTICE IS HEREBY GIVEN that pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Counsel for Plaintiff intends to use Defendants' discovery responses and any documents produced in discovery in the trial of this cause of action and/or any hearings before the Court herein.

REQUEST FOR DISCLOSURE

22. Pursuant to Texas Rule of Civil Procedure 194, request is made of Defendants to respond to the undersigned counsel in writing and with all information and documents required under Rule 194.2(b).

JURY DEMAND

23. Plaintiffs respectfully requests that a jury be convened to try the factual issues of this case.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

TRUJILLO & SANCHEZ, P.C.

/s/ M. Andre Anziani

M. Andre Anziani

State Bar No. 24095224

David L. Sanchez

State Bar No. 24053461

500 E. John Carpenter Frwy., Ste. 140

Irving, TX 75062

(972) 529-3476 Phone / Fax

E-FILE EMAIL: FAXES@972LAWFIRM.COM

ATTORNEYS FOR PLAINTIFF



**Service of Process
Transmittal**

11/30/2021

CT Log Number 540668584

TO: Kim Lundy- Email
Walmart Inc.
702 SW 8TH ST
BENTONVILLE, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Stores Texas, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: MELGAR MARIA, AS NEXT FRIEND OF A.M., A MINOR, // To: Wal-Mart Stores Texas, LLC

DOCUMENT(S) SERVED: Citation, Original Petition

COURT/AGENCY: Denton County, District Court of Texas, TX
Case # 2110422442

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - 10/17/2020, at 4691 State Highway 121, The Colony, Texas 75056

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 11/30/2021 at 03:12

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): M. Andre Anziani
Trujillo & Sanchez, P.C.
500 E. John Carpenter Frwy., Ste. 140
Irving, TX 75062
972-529-3476

ACTION ITEMS: CT has retained the current log, Retain Date: 12/01/2021, Expected Purge Date: 12/06/2021

Image SOP

REGISTERED AGENT ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
877-564-7529
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Tue, Nov 30, 2021

Server Name: Steve Friedenthal

Entity Served	WAL-MART STORES TEXAS, LLC
Case Number	21-10422-442
Jurisdiction	TX

